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FM USEU BRUSSELS

TO RUEHC/SECSTATE WASHDC PRIORITY

INFO RUCNMEM/EU MEMBER STATES COLLECTIVE PRIORITY

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RUEHM/AMCONSUL MONTREAL PRIORITY

RHMFIU/FAA NATIONAL HQ WASHINGTON DC PRIORITY

UNCLAS SECTION 01 OF 02 BRUSSELS 001212

SENSITIVE

SIPDIS

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FAA API JENNIFER KILEO; FAA AEA KURT EDWARDS  
MONTREAL PASS TO ICAO

E.O. 12958: N/A

TAGS: FAIR ECON SENV EUN

SUBJECT: USG OWNED OR OPERATED AIRCRAFT ON THE EU ETS LIST

REF: STATE 89892

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¶1. (SBU) SUMMARY: USEU EconOffs raised U.S. concerns about USG owned or operated aircraft inappropriately included on the EU list of Aircraft Operators with European Commission officials at DG Transportation and Energy (DG TREN) and DG Environment (DG ENV) on September 1. Commission officials argued that the list has no consequences at the Community level, rather operator activity triggers ETS coverage. As required by the EU Directive, the list will be revised in February 2010, but currently officials are unable to say if the USG aircraft would be removed. DG ENV will request more detailed data from EuroControl as the basis for further expert discussion. The N-numbers and N-registered aircraft information was furnished by French authorities and relates to French Overseas Territories flights so Embassy Paris would be an appropriate addition to the Action Request. USEU recommends putting the issue on the agenda of the October U.S.-EU Aviation Joint Committee Meeting and that the Head of Unit of DG ENV's Office of Clean Air and Transport be a member of the EU delegation. END SUMMARY

¶2. (SBU) On September 1, EconOff raised the points reftel at DG TREN with Policy Officers David Batchelor, Aviation Safety and Environment, and Daniel Edwards, Internal Market, Air Transport Agreements and Multilateral Relations, and requested that USG operators be removed from the EU list of Aircraft Operators. Batchelor and Edwards were receptive, but underlined that DG ENV has lead in implementation of the EU Emissions Trading Scheme (EU-ETS). They understand the U.S. concern and will share it with Air Transport Director Daniel Calleja and Head of Unit Olivier Onidi. Batchelor agreed that the list should be as accurate as possible, but noted that compiling it was a greater challenge than DG ENV had anticipated. Given time constraints and the need to inform Member State authorioperator active`Q`@Qid`^atchelor--who gave a presentation on EU-ETS MRV implementation at the June Joint Committee Meeting in Brussels. He reports to Owen. END NOTE) In response to the U.S. request that the USG aircraft be removed from the list on an urgent basis and that the multiple errors with N-numbers and N-registered aircraft be corrected, DG ENV officials repeated Batchelor's argument that the list has no consequences at the Community level and that it serves only to allocate operators to Member State authorities. Owen stressed that operator activities were key and that in regard to the USG aircraft it would be the

purpose of the flight that would govern exceptions to the ETS. He said that his office would take another look at the list, reviewing it in due course to prepare the required annual update in February. Owen also provided copies of the Commission's Information Note on the Legal Status of the List of Aircraft Operators and of the Commission Decision of 8 June 2009 on the Detailed Interpretation of Aviation Activities Listed in Annex I to Directive 2003/87/EC. These documents have been emailed to EEB/TRA and are available on DG ENV website at [www.ec.europa.eu/environment](http://www.ec.europa.eu/environment).

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¶4. (SBU) Good provided a lengthy explanation of how the list was prepared and said that the USG owned or operated craft would have been included because of the type of flight information filed. At Owen's prompting, he agreed to request more detailed data from EuroControl regarding the USG owned or operated flights to serve as a basis for further expert discussion. He reiterated several times that inclusion in the EU ETS is linked to actual aviation activity and not to inclusion on the list. When asked about Member State steps to incorporate ETS into domestic law, Good argued that references to the EU list simply allow Members State authorities "to consider the operators on the list" and provide legal grounds for refusing to regulate those assigned to another Member, providing "certainty" to authorities and to industry. Good also noted that the information on N-numbers and N-registered aircraft came from French authorities since EuroControl has no records of flights in and out of the French Overseas Territories. He expressed concern that due to using two separate sources of information, there may be some double counting and said that DG ENV would reach out to French authorities for clarification. Citing the press of work in getting the MRV implementation underway, he claimed it would not be possible to revise the list prior to February 1, 2010.

¶5. (SBU) COMMENT: USEU will press DG ENV to provide additional detail promptly and will continue to engage with appropriate officials there, but note the institutional unwillingness to resolve the matter before February, if then.

Regarding the N-numbers and N-registered aircraft, Washington agencies may wish to direct Embassy Paris raise the matter with the French authorities. USEU recommends that EEB/TRA request Philip Owen, Head of the Clean Air and Transport Unit at DG ENV, be included in the EU delegation to the Joint Committee meeting in Washington in October, in order to further address this issue. END COMMENT.

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